

1-1 By: Darby (Senate Sponsor - Watson) H.B. No. 2277
 1-2 (In the Senate - Received from the House May 8, 2017;
 1-3 May 9, 2017, read first time and referred to Committee on Finance;
 1-4 May 15, 2017, reported favorably by the following vote: Yeas 9,
 1-5 Nays 0; May 15, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Hinojosa			X	
1-9 Bettencourt	X			
1-10 Birdwell	X			
1-11 Hancock	X			
1-12 Huffman			X	
1-13 Kolthorst	X			
1-14 Nichols	X			
1-15 Schwertner			X	
1-16 Seliger			X	
1-17 Taylor of Galveston	X			
1-18 Uresti	X			
1-19 Watson			X	
1-20 West	X			
1-21 Whitmire			X	

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to the temporary exemption or tax reduction for certain
 1-26 high-cost gas.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 201.057(a)(2), Tax Code, is amended to
 1-29 read as follows:

1-30 (2) "High-cost gas" means[+
 1-31 [~~(A)~~] high-cost natural gas as described by
 1-32 Section 107, Natural Gas Policy Act of 1978 (15 U.S.C. Section
 1-33 3317), as that section existed [~~exists~~] on January 1, 1989, without
 1-34 regard to whether that section is in effect or whether a
 1-35 determination has been made that the gas is high-cost natural gas
 1-36 for purposes of that Act[~~, or~~

1-37 [~~(B) all gas produced from oil wells or gas wells~~
 1-38 ~~within a commission approved co-production project].~~

1-39 SECTION 2. Section 201.057, Tax Code, is amended by
 1-40 amending Subsections (c), (e), (f), (g), and (i) and adding
 1-41 Subsection (g-1) to read as follows:

1-42 (c) High-cost gas [~~as defined in Subsection (a)(2)(A)]~~
 1-43 produced from a well that is spudded or completed after August 31,
 1-44 1996, is entitled to a reduction of the tax imposed by this chapter
 1-45 for the first 120 consecutive calendar months beginning on the
 1-46 first day of production, or until the cumulative value of the tax
 1-47 reduction equals 50 percent of the drilling and completion costs
 1-48 incurred for the well, whichever occurs first. The amount of tax
 1-49 reduction shall be computed by subtracting from the tax rate
 1-50 imposed by Section 201.052 the product of that tax rate times the
 1-51 ratio of drilling and completion costs incurred for the well to
 1-52 twice the median drilling and completion costs for high-cost wells
 1-53 [~~as defined in Subsection (a)(2)(A)]~~ spudded or completed during
 1-54 the previous state fiscal year, except that the effective rate of
 1-55 tax may not be reduced below zero.

1-56 (e) The operator of a proposed or existing gas well,
 1-57 including a gas well that has not been completed, [~~or the operator~~
 1-58 ~~of any proposed or existing oil or gas well within a commission~~
 1-59 ~~approved co-production project,]~~ may apply to the commission for
 1-60 certification that the well produces or will produce high-cost gas.
 1-61 The [~~Such~~] application[~~, if seeking certification as high-cost gas~~

2-1 ~~according to Subsection (a)(2)(A),~~] may be made at any time after
 2-2 the first day of production. The application may be made but is not
 2-3 required to be made concurrently with a request for a determination
 2-4 that gas produced from the well is high-cost natural gas for
 2-5 purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section
 2-6 3301 et seq.) ~~[or with a request for commission approval of a~~
 2-7 ~~co-production project].~~ The commission may require an applicant to
 2-8 provide the commission with any relevant information required to
 2-9 administer this section. For purposes of this section, a
 2-10 determination that gas is high-cost natural gas for purposes of the
 2-11 Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.)
 2-12 ~~[according to Subsection (a)(2)(A) or a determination that gas is~~
 2-13 ~~produced from within a commission approved co-production project]~~
 2-14 is a certification that the gas is high-cost gas for purposes of
 2-15 this section, and in that event additional certification is not
 2-16 required to qualify for the ~~[exemption or]~~ tax reduction provided
 2-17 by this section.

2-18 (f) To qualify for the ~~[exemption or]~~ tax reduction provided
 2-19 by this section, the person responsible for paying the tax must
 2-20 apply to the comptroller. The application must contain the
 2-21 certification of the commission that the well produces high-cost
 2-22 gas and~~[, if the application is for a well spudded or completed~~
 2-23 ~~after September 1, 1995,]~~ must contain a report of drilling and
 2-24 completion costs incurred for each well on a form and in the detail
 2-25 as determined by the comptroller. Drilling and completion costs
 2-26 for a recompletion shall only include current and contemporaneous
 2-27 costs associated with the recompletion. Notwithstanding any other
 2-28 provision of this section, to obtain the maximum ~~[tax exemption or]~~
 2-29 tax reduction [deduction], an application to the comptroller for
 2-30 certification according to Subsection (a)(2) ~~[(a)(2)(A)]~~ must be
 2-31 filed with the comptroller at the later of the 180th day after the
 2-32 date of first production or the 45th day after the date of approval
 2-33 by the commission. If the application is not filed by the
 2-34 applicable deadline, the ~~[tax exemption or]~~ tax reduction
 2-35 ~~[deduction]~~ is reduced by 10 percent for the period beginning on the
 2-36 180th day after the first day of production and ending on the date
 2-37 on which the application is filed with the comptroller. ~~[An~~
 2-38 ~~application to the comptroller for certification according to~~
 2-39 ~~Subsection (a)(2)(B) may not be filed before January 1, 1990, or~~
 2-40 ~~after December 31, 1998.]~~ The comptroller shall approve the
 2-41 application of a person who demonstrates that the gas is eligible
 2-42 for the ~~[exemption or]~~ tax reduction. The comptroller may require a
 2-43 person applying for the ~~[exemption or]~~ tax reduction to provide any
 2-44 relevant information in the person's monthly report that the
 2-45 comptroller considers necessary to administer this section. The
 2-46 commission shall notify the comptroller in writing immediately if
 2-47 it determines that a ~~[an oil or gas]~~ well previously certified as
 2-48 producing high-cost gas does not produce high-cost gas or if it
 2-49 takes any action or discovers any information that affects the
 2-50 eligibility of gas for a ~~[an exemption or]~~ tax reduction under this
 2-51 section.

2-52 (g) As soon as practicable after March 1 of each year, the
 2-53 comptroller shall determine ~~[from reports containing drilling and~~
 2-54 ~~completion cost data as required on applications to the comptroller~~
 2-55 ~~under Subsection (f),]~~ the median drilling and completion cost for
 2-56 all high-cost wells ~~[as defined in Subsection (a)(2)(A)]~~ for which
 2-57 an application for a tax reduction [exemption or reduced tax] was
 2-58 made during the previous state fiscal year. In making the
 2-59 determination, the comptroller shall use the drilling and
 2-60 completion cost data required to be reported to the comptroller
 2-61 under Subsection (f). The [These] median drilling and completion
 2-62 cost [costs] shall be used to compute the reduced tax under
 2-63 Subsection (c) and is fixed on the date of the comptroller's
 2-64 determination under this subsection.

2-65 (g-1) The report of drilling and completion costs required
 2-66 under Subsection (f) may not be amended after March 1 of the year
 2-67 following the state fiscal year in which the application was made.

2-68 (i) If, before the commission certifies that a well produces
 2-69 high-cost gas or before the comptroller approves an application for

3-1 a ~~[an exemption or]~~ tax reduction under this section, the tax
 3-2 imposed by this chapter is paid on high-cost gas that otherwise
 3-3 qualifies for the ~~[exemption or]~~ tax reduction provided by this
 3-4 section, the person who remitted the tax is [producer or producers
 3-5 of the gas are] entitled to a refund [credit against other taxes
 3-6 imposed by this chapter] in an amount equal to the difference
 3-7 between the amount of the tax paid on the gas and the amount of tax
 3-8 that would have been paid on the gas if it had received a [that
 3-9 otherwise qualified for the exemption or] tax reduction under this
 3-10 section [on or after the first day of the next month after the month
 3-11 in which the application for certification under this section was
 3-12 filed with the commission]. The [If the application for
 3-13 certification is submitted to the commission after January 1, 2004,
 3-14 the] total allowable refund [credit] for taxes paid for reporting
 3-15 periods before the date the application is filed may not exceed the
 3-16 total tax paid on the gas that otherwise qualified for the
 3-17 ~~[exemption or]~~ tax reduction and that was produced during the 24
 3-18 consecutive calendar months immediately preceding the month in
 3-19 which the application for certification under this section that the
 3-20 comptroller approved was filed with the commission. ~~[The credit is~~
 3-21 ~~allocated to each producer according to the producer's~~
 3-22 ~~proportionate share in the gas.]~~ To receive a refund [credit], the
 3-23 person entitled to the refund [one or more of the producers] must
 3-24 apply to the comptroller for the refund [credit] not later than the
 3-25 first anniversary after the date the comptroller approves the
 3-26 application for a ~~[an exemption or]~~ tax reduction under this
 3-27 section. ~~[If a producer demonstrates that the producer does not~~
 3-28 ~~have sufficient tax liability under this chapter to claim the~~
 3-29 ~~credit within five years from the date the application for the~~
 3-30 ~~credit is made, the producer is entitled to a refund in the amount~~
 3-31 ~~of any credit the comptroller determines may not be claimed within~~
 3-32 ~~that five years. Nothing in this subsection shall relieve the~~
 3-33 ~~obligation imposed by Subsection (b) to pay tax when due on~~
 3-34 ~~high-cost gas produced from co-production projects on or before~~
 3-35 ~~July 31, 1995.]~~

3-36 SECTION 3. Sections 201.057(a)(3), (a)(4), (a)(5), (b),
 3-37 (d), and (j), Tax Code, are repealed.

3-38 SECTION 4. The change in law made by this Act does not
 3-39 affect tax liability accruing before the effective date of this
 3-40 Act. That liability continues in effect as if this Act had not been
 3-41 enacted, and the former law is continued in effect for the
 3-42 collection of taxes due and for civil and criminal enforcement of
 3-43 the liability for those taxes.

3-44 SECTION 5. This Act takes effect September 1, 2017.

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